



FSA
FEDERAL
STUDENT AID

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SEP 13 2005

Dr. James C. Garland
President
Miami University of Ohio
Roudebush Hall
Oxford, OH 45056-1831

SENT VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

OPE-ID: 00307700

Dear Dr. Garland:

This is to inform you that the United States Department of Education (Department) intends to fine Miami University of Ohio (Miami-OH) **\$27,500.00** based upon the violations set forth in this letter. Miami-OH participates in the federal student financial assistance programs authorized under Title IV of the Higher Education Act of 1965 (HEA), as amended, 20 U.S.C. §1070 et seq., (Title IV, HEA programs). The Department is taking this fine action pursuant to §487(c)(3)(B) of the HEA, 20 U.S.C. §1094(c)(3)(B) and 34 C.F.R. §668.84. This fine action is based on Miami-OH's failure to comply with the requirements of the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the Clery Act), in Section 485(f) of the HEA and the Department's regulations at 34 C.F.R. §668.46.

Under §485(f)(8)(B)(iv) of the HEA and the Department's regulations at 34 C.F.R. §668.46(b)(11)(vi), an institution must have procedures for campus disciplinary actions in cases of alleged sex offenses which include a clear statement that the accuser and accused will be informed of the outcome of the institutional disciplinary proceeding. Miami-OH's policy statements in its Student Handbook inform students that "in cases of an alleged sex offense, both the accuser and accused will be notified, in writing, of the outcome of the disciplinary proceedings." Miami-OH established this policy after a program review by the Department in 1997 found that the institution was not in compliance with the notification requirements in the HEA and the regulations.

On May 24, 2005, the Department's Chicago School Participation Team issued a final program review determination letter (FPRD) (PRCN: 200510524095) to Miami-OH. The FPRD was the result of a focused campus security program review conducted in response to a complaint from Security on Campus, Inc., on behalf of a former student at Miami-OH. See Enclosure 1. During the course of resolving the program review, the Department determined that, over the past five years in six of nine disciplinary cases involving alleged sex offenses, the accusing students did not receive written notice of the outcome of the disciplinary proceedings. Thus, Miami-OH failed to comply with the policies it established to meet the requirements of §485(f)(8)(B)(iv) of the HEA and 34 C.F.R. §668.46(b)(11). As described below, Miami-OH's violation of the statutory and regulatory requirements has been serious and repeated, and, therefore, a fine in the amount of \$27,500.00 is warranted.

I. MIAMI-OH FAILED TO PROVIDE WRITTEN NOTIFICATION OF THE OUTCOME OF DISCIPLINARY PROCEEDINGS TO STUDENTS ALLEGING A SEXUAL OFFENSE

The Department conducted a program review of Miami-OH in 1997 (PRCN: 199740814014). One of the findings in that review was that Miami-OH did not comply with the notification requirements of the Clery Act in cases of alleged sex offenses. In its response to that program review Miami-OH committed to notifying in writing both the accuser and the accused in any institutional disciplinary proceeding involving an alleged sex offense of the outcome of that disciplinary proceeding. See Enclosure 2. In addition, Miami-OH modified Section 702 of its Student Conduct regulations to state that “in cases of an alleged sex offense, both the accuser and the accused will be notified, in writing, of the outcome of the disciplinary proceedings.” See Enclosure 3.

Earlier this year, in response to a complaint from a former Miami-OH student, the Chicago Team conducted another program review of Miami-OH’s compliance with Clery Act requirements. In the complaint, the former student alleged that, although she was a victim of an alleged sexual offense that was adjudicated by Miami-OH’s disciplinary hearing process, she was not properly informed of the outcome of those disciplinary proceedings. Miami-OH did not provide written notification of the outcome of the disciplinary proceedings to the accusing student until October 7, 2004, over 11 months after written notification of the outcome of the proceedings was provided to the accused student.

After reviewing the complaint, the Chicago Team requested and reviewed additional information from Miami-OH regarding its actions in notifying accusing students in institutional disciplinary proceedings involving alleged sex offenses. The information and records provided by Miami-OH to the Department shows that over a five-year period, Miami-OH had nine disciplinary cases involving alleged sex offenses. Miami-OH provided accurate written notice in only three of these cases. In the other six, including that of the complaining student, Miami-OH did not provide the written notice required by its own published policies. In two cases, the accusing students did not receive any notification – written or verbal – of the outcome of the disciplinary proceedings. In one of the six cases, a Miami-OH official verbally gave the accusing student incorrect information about the outcome of the disciplinary proceeding. This student later learned that the accused student had been allowed to return to campus one year earlier than she had been informed would occur. In three other cases, the accusing students received only verbal notification of the disciplinary hearing outcome.

When Miami-OH became aware of the former student’s complaint to the Department, the institution finally provided written notice of the outcome of the disciplinary proceedings to the six accusing students who had not previously received the required notice. However, this notice was not provided to any of the six accusing students until October 7, 2004. In contrast, written notification of the outcome of the disciplinary cases was provided to the accused students on January 4, 2000, December 8, 2000, December 5, 2002, February 19, 2003, October 29, 2003, and March 4, 2004. As a result, the accusing students did not receive the required written notice until anywhere from six months to nearly five years after the accused students received the notice.

The Department’s regulations at 34 C.F.R. §668.46(b)(11)(vi)(B) require an institution to have procedures for campus disciplinary action in cases of an alleged sex offense, including a clear statement that both the accuser and the accused must be informed of the outcome of any institutional disciplinary proceeding brought alleging a sex offense. Miami-OH established as part of its institutional policy, and committed to the Department as part of resolving the 1997

program review, that both the accuser and accused would be notified in writing of the outcome of a disciplinary proceeding involving an alleged sexual offense. Because Miami-OH was on notice of its failure to comply with Clery Act requirements, its repeated failure to comply with these requirements is a serious matter.

II. MIAMI-OH'S SEVERE AND REPEATED VIOLATIONS OF TITLE IV, HEA PROGRAM REQUIREMENTS MERIT THE IMPOSITION OF A FINE

The Title IV, HEA statute and program regulations permit a fine of up to \$27,500 for each violation of any provision of Title IV, or of any regulation or agreement implementing program requirements. 20 U.S.C. §1094(c)(3)(B); 34 C.F.R. §668.84(a). In determining the amount of a fine, the Department considers both the gravity of the offense and the size of the institution. 34 C.F.R. §668.84(a). Pursuant to the Secretary's decision In the Matter of Bnai Arguath Habosem, Docket No. 92-131-ST (August 24, 1993), the size of an institution is based on whether a school is above or below the median funding levels for the Title IV, HEA programs in which it participates.

In Miami-OH's case, the latest year for which complete funding data is available is the 2003-2004 award year. According to the Department's records, students enrolled at Miami-OH received \$52,212,973.00 in Federal Family Education Loan (FFEL) and Federal Direct Loan funds (\$51,893.00 FFEL and \$52,161,080 in Federal Direct Loan funds), \$3,698,982 in Campus-Based Funding (\$1,251,139 Federal Supplemental Educational Opportunity Grant (FSEOG), \$738,959 Federal Work Study (FWS), and \$1,708,884 Federal Perkins Loan funds), and \$7,571,069 in Federal Pell Grant funds. The amount of Title IV, HEA program funds received by or on behalf of students attending Miami-OH is set forth in detail in Enclosure 4 to this letter. The latest information available to the Department indicates that the median funding level for schools participating in both the FFEL and Direct Loan programs for the 2003-04 award year is \$1,785,482; for institutions participating in the Campus-Based programs, the median funding level is \$274,140; and for institutions participating in the Federal Pell Grant program the median funding level is \$817,306. Accordingly, Miami-OH is not a small institution because its funding levels in the FFEL, Campus-Based, and Federal Pell Grant programs are above the median funding levels.

As detailed in this letter, the violations involved here are serious and repeated, and the potential harm to students is severe. The Department considers an institution's compliance with Clery Act requirements to be part of its administrative capability, and Miami-OH's failure to comply with those requirements and its own campus security policy constitutes an inability to properly administer the Title IV, HEA programs. After considering the gravity of the violations and the size of the institution, I have set the fine amount as follows:

For Miami-OH's failure to notify students in writing of the outcome of disciplinary proceedings alleging sex offenses, I have viewed this as one substantive violation and have set the fine at **\$27,500.00**.

This is a very serious violation because it harms students and comes after the institution had been warned of the consequences of noncompliance. Students must be able to rely on the policies established by the institution. Miami-OH's continuing failure of administrative capability as a result of these violations demonstrates an inability or an unwillingness to administer the Title IV, HEA programs in accordance with federal regulations.

The fine of \$27,500.00 will be imposed on October 5, 2005, unless by that date we receive a request for a hearing or written material indicating why the fine should not be imposed. Miami-OH may submit both a written request for a hearing and written material indicating why the fine should not be imposed. If Miami-OH chooses to request a hearing or to submit written material, you must write to me, via overnight mail, at:

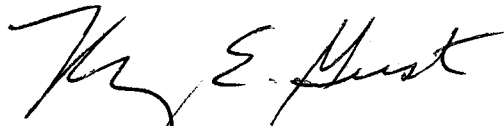
Administrative Actions and Appeals Division
U.S. Department of Education
School Eligibility Channel, ASEDS/FSA
830 First Street, NE – UCP3, Room 83E1
Washington, DC 20002-8019

If Miami-OH files a timely request for a hearing, the case will be referred to the Office of Hearings and Appeals, which is a separate entity within the Department. That office will arrange for assignment of Miami-OH's case to an official who will conduct a hearing. Miami-OH is entitled to be represented by counsel at the hearing and otherwise during the proceedings. If Miami-OH does not request a hearing, but submits written material instead, I shall consider that material and notify the institution of the amount of the fine, if any, that will be imposed.

Any request for a hearing or written material that Miami-OH submits must be received by October 5, 2005; otherwise, the fine will be imposed on that date.

If you have any questions, or desire any additional explanation of the institution's rights with respect to this action, please contact Susan Crim of my staff at (816) 268-0417.

Sincerely,



Mary E. Gust, Director
Administrative Actions and Appeals Division
Federal Student Aid

cc: Robin Parker, General Counsel, Miami University of Ohio
Charles Knepfle, Financial Aid Administration, Miami University of Ohio
Brian Siegel, Esq., Office of the General Counsel
Robin Minor, Acting Director, School Participation Team, Northwest
Douglas Parrott, Area Case Director, Chicago Team
John Jaros, Team Leader, Chicago Team
Countess Clarke Cooper, Team Leader (DC), Chicago Team
Herschel Wallace III, Sr. Institutional Review Specialist, Chicago Team

ENCLOSURE 1



**FEDERAL
STUDENT AID**
We Help Put America Through School

UNITED STATES DEPARTMENT OF EDUCATION

Federal Student Aid
School Participation Team-Northwest
111 North Canal Street, Suite 830
Mail Stop Suite 1009
Chicago, Illinois 60606-7204

May 24, 2005

Dr. James C. Garland
President
Miami University of Ohio
500 East High Street
Roudebush Hall
Oxford, OH 45056-1831

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED
7002 2030 0007 8277 0209**

FINAL PROGRAM REVIEW DETERMINATION LETTER

PRCN: 200510524095
OPE ID Number: 00307700

Dear Dr. Garland:

This letter provides the U.S. Department of Education's (Department) Final Program Review Determination (FPRD) concerning Miami University of Ohio's (Miami-OH) compliance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the Clery Act), in Section 485(f) of the Higher Education Act of 1965, as amended, and the Department's regulations at 34 CFR Section 668.46.

This FPRD is the result of a focused campus security program review conducted by the Chicago School Participation Team in response to a complaint from Security On Campus, Inc. on behalf of a former student at Miami-OH. The complaint alleged that the former student was not properly informed of the outcome of a campus disciplinary hearing involving an alleged on-campus sexual assault of which the former student was the victim. The Department requested and received pertinent information regarding facts of the complaint and Miami-OH's disciplinary hearing practices and notices from Ms. Robin Parker, General Counsel for Miami University of Ohio.

**Miami University of Ohio
500 East High Street
Roudebush Hall
Oxford, OH 45056-1831**

FINDING AND FINAL PROGRAM DETERMINATION

FINDING

As part of its review, the Department received information regarding Miami-OH's disciplinary cases involving alleged sexual offenses over the past five years. Miami-OH reported that there were nine disciplinary cases involving alleged sex offenses. In those nine disciplinary cases, six of the accusing students did not receive written notice of the outcome of the disciplinary proceedings. In one of those six cases, the case that involved the former student who was the subject of the complaint that initiated this particular program review, Miami-OH verbally provided the accuser with incorrect information about the outcome of the disciplinary proceedings. In two of the six cases, the accusers also did not receive verbal information about the outcome of the disciplinary proceedings. In the other three out of six cases, Miami-OH provided verbally correct information about the outcome of the disciplinary proceeding to the accusing students. Over the five-year period, Miami-OH provided accurate written notice to the accusing students in only three of the nine cases of campus disciplinary hearings regarding alleged sexual offenses.

When Miami-OH discovered that it had failed to provide written notice of the outcome of the disciplinary proceedings in these six cases noted above, the institution provided written notices to the accusing students. However, the written notice was not provided until October 7, 2004, which was anywhere from six months to five years after the disciplinary hearings.

The Department conducted a review of Miami-OH in 1997 that found that Miami-OH did not comply with the Clery Act's notification requirements (PRCN: 199740814014). In its response to that program review report, Miami-OH stated that it would notify in writing both the accuser and the accused of the outcome of any institutional disciplinary proceedings that involved an alleged sex offense. Section 702 of Miami-OH's Code of Student Conduct states that in "cases of an alleged offense, both the accuser and the accused will be notified, in writing, of the outcome of the disciplinary proceedings."

FINAL PROGRAM DETERMINATION

The Department's regulations at 34 CFR Section 668.46(b)(11)(vi)(B) states that an institution must have procedures for campus disciplinary action in cases of an alleged sex offense, including a clear statement that both the accuser and the accused must be informed of the outcome of any institutional disciplinary proceeding brought alleging a sex offense.

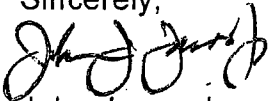
**Miami University of Ohio
500 East High Street
Roudebush Hall
Oxford, OH 45056-1831**

Miami-OH has established as part of its institutional policies that both the accuser and the accused will be notified in writing of the outcome of a disciplinary proceeding involving an alleged sexual offense. As stated above, however, the institution has failed to comply with its own policy over the past five years in six of the nine institutional disciplinary cases concerning alleged sexual offenses. In none of those six cases was the accuser notified in writing of the outcome of the disciplinary proceedings. In fact, in two cases, the accusers weren't notified at all, and in one case the accuser was provided an incorrect notice of the outcome of the proceedings.

An institution's failure to comply with its campus security policy constitutes an inability by the institution to properly administer the Title IV, HEA programs. In this case, the failure to follow administrative procedures is particularly egregious because the institution was on notice of its requirement to comply with the Clery Act. As a result, as part of the Final Program Determination, the Chicago School Participation Team is referring this FPRD to the Administrative Actions and Appeals Division (AAAD) for its consideration of possible adverse administrative action. AAAD will notify the Institution of any action that it may take with respect to this FPRD. That notification will include information on institutional appeal rights and procedures.

I would like to express my appreciation for the courtesy and cooperation extended during the review. Please refer to the above Program Review Control Number (PRCN) in all correspondence relating to this report. If you have any questions concerning this report, please call Herschel Wallace at (312) 886-8739.

Sincerely,



John Jaros, Jr.

Team Leader

Chicago School Participation Team

Cc: Ms. Robin Parker, General Counsel
Miami University of Ohio
Roudebush Hall
Oxford, OH 45056-3653

Mr. Charles R. Knepfle, Financial Aid Administrator
301 South Campus Avenue
Room 121
Oxford, OH 45056-3427

ENCLOSURE 2

Response to #2: DOE FINDING - FAILURE TO FOLLOW CAMPUS SECURITY ACT REGULATION REGARDING NOTIFICATION OF DISCIPLINARY ACTION.

The DOE Report confuses both the law and the facts. Miami, in fact, complies with the Campus Security Act regulations regarding notification of disciplinary action in cases of alleged sex offenses.

The Campus Security Act requires that universities notify both the accuser and the accused of the outcome of disciplinary proceedings in cases of alleged sex offenses. The attached affidavit of Susan Vaughn,¹⁶ Director of Judicial Affairs, details Miami's compliance with this notification requirement. In addition, Miami's annual security reports clearly state that both the accuser and the accused are entitled to notification. (See 1997 annual security report.)

Additionally, universities are permitted but not required by the Family Educational Rights and Privacy Act (FERPA) to disclose the outcome of disciplinary proceedings to any alleged victim of a crime of violence. Again, Miami, in accordance with law, has done so.¹⁷ Ms. Vaughn's affidavit details Miami's policy regarding this permissive notification process.

The DOE statement that Miami does not "ensure that complainants are always notified of the outcome of disciplinary proceedings" reflects an inaccurate interpretation of federal law. The fact is that when Miami can legally notify complainants of the outcome of disciplinary proceedings it has done so. However, Miami cannot legally notify complainants in all disciplinary proceedings. To do so would violate FERPA, which permits such disclosure only in cases of alleged sexual offenses or alleged crimes of violence.¹⁸

However, to avoid further confusion in cases of an alleged sex offense, Miami will notify in writing both the accuser and the accused of the outcome of any institutional disciplinary proceedings. Further, Miami will amend its Code of Student Conduct to reflect that in cases of an alleged sex offense, both the accuser and the accused will be notified, in writing, of the outcome of the disciplinary proceedings. Miami disputes the DOE's conclusion that it is unable to properly administer Title IV programs based upon its omission of such information from its Code of Student Conduct.

¹⁶Ms. Vaughn's affidavit is included in the Appendix on pg. 4

¹⁷Hence the portion of Miami's disciplinary procedures cited by DOE (1997-98 Code of Student Conduct pg. 22) implements 34 C.F.R. §99.31(a)(13) not 34 C.F.R. 688.47(a)(12)(vi). Although Miami employs various methods of notification, Miami complies with the mandatory disclosure requirements of 34 C.F.R. §668.47.

¹⁸34C.F.R. 99.31(a)(13)

ENCLOSURE 3



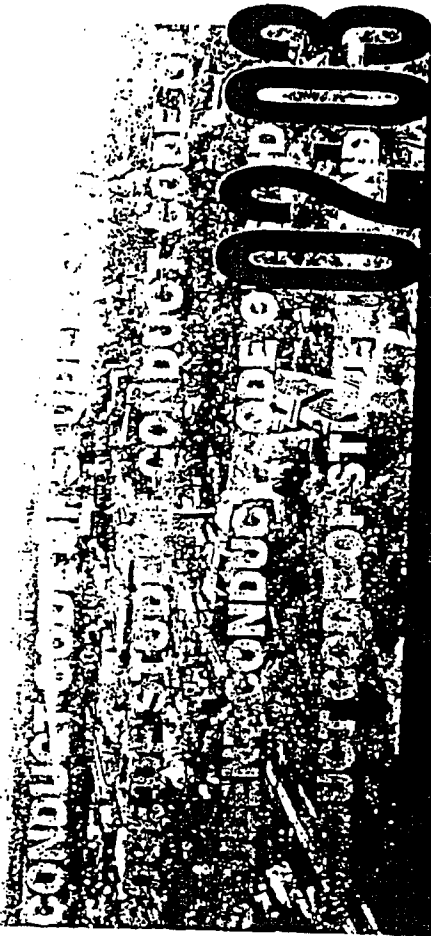
MIAMI UNIVERSITY
OXFORD, OHIO

Office of Judicial Affairs
229 Warfield Hall, Oxford, OH 45056
513-529-1417

Code of Student Conduct revised and approved in spring 2003



Alumn Union, the largest opportunity in education and employment



The Student Handbook, Section 2:

STUDENT CONDUCT REGULATIONS

SANCTIONS

HEARING PROCEDURES



MIAMI
UNIVERSITY

View the entire Student Handbook online at

PART VII. MISCELLANEOUS

SECTION 701. Withdrawal

Should an accused student be academically dismissed or withdraw from Miami University before a "1219" or disciplinary action has been resolved, the matter may proceed in the absence of the student and/or a disciplinary hold note may be placed on the student's official transcript indicating "disciplinary changes are pending at Miami University."

A disciplinary hold will not permit a student to register for a subsequent semester, change a current class schedule, or receive an official transcript. If a hold is placed subsequent to a student registering for classes, the classes will be cancelled prior to the start of the semester.

SECTION 702. Campus Security Act

The Campus Crime Awareness and Campus Security Act of 1990, as amended by the Higher Education Amendments of 1992, allows higher education institutions to disclose to alleged victims of any crime of violence the results of disciplinary proceedings by the University. Miami University, upon request, discloses to alleged victims of crimes of violence the results of disciplinary proceedings by the University. In cases of an alleged sex offense, both the accuser and the accused will be notified, in writing, of the outcome of the disciplinary proceedings.

SECTION 703. Discipline Files and Records

- A. Disciplinary records and files are kept in the Office of Judicial Affairs.
- B. Disciplinary actions resulting in a finding of responsible but not resulting in suspension or dismissal are kept on file in the Office of Judicial Affairs for two years from the last date of matriculation.
- C. Disciplinary actions resulting in suspension are kept permanently on file in the Office of Judicial Affairs unless a student or alumna/alumnus two years or more after the date of the last incident has requested that the Dean of Students or designee expunge his or her disciplinary record, and the Dean has granted the request. (See Section 705.B.)
- D. Disciplinary actions resulting in dismissal are kept permanently on file in the Office of Judicial Affairs unless a student or alumna/alumnus five years or more after the date of the last incident has requested that the Dean of Students or designee expunge his or her disciplinary record, and the Dean has granted the request. (See Section 705.C.)
- E. Disciplinary actions resulting in a finding of not responsible are kept on file in the Office of Judicial Affairs for one year from the date of the incident.

F. Notice of suspension is kept permanently on the student's official University academic record maintained in the Office of the Registrar unless the student has petitioned the Dean of Students or designee two years or more after the date of the last incident or incidents to have the notation removed, and the Registrar, at the direction of the Dean of Students or designee, has removed the notation. (See Section 705.B.)

G. Notice of dismissal is kept permanently on the student's official University academic record maintained in the Office of the Registrar unless the student has petitioned the Dean of Students or designee five years or more after the date of the last incident or incidents to have the notation removed, and the Registrar, at the direction of the Dean of Students or designee, has removed the notation. (See Section 705.C.)

H. Academic credit earned elsewhere during a period of suspension or dismissal will not be accepted in transfer. Incomplete grades may be removed during periods of nonregistration including suspension (nonacademic) or dismissal.

SECTION 704. Confidentiality

Disciplinary matters are kept confidential to the extent required by law.

SECTION 705. Record Expunction

- A. A student or an alumna/alumnus who has not been dismissed may request that the Dean of Students or designee expunge an incident or incidents from his or her disciplinary records and files kept in the Office of Judicial Affairs after two years have passed from the time of the incident or incidents. The decision to expunge will be based on the offense, the person's disciplinary record, and evidence of good behavior since the offense occurred.
- B. A student or an alumna/alumnus who has been suspended, two years from the date of the incident or incidents that resulted in the suspension, may request that the Dean of Students or designee expunge the incident or incidents from his or her disciplinary records and files kept in the Office of Judicial Affairs. In addition, at the same time or at a later time, the student or alumna/alumnus may request that the designation "suspended for nonacademic reasons" be removed from his or her official University academic record kept on file in the Office of the Registrar. The decision to expunge either record will be based on the offense, the person's disciplinary record, and evidence of good behavior since the offense occurred.
- C. A student or an alumna/alumnus who has been dismissed, five years from the date of the incident or incidents that resulted in the dismissal, may request that the Dean of Students or designee expunge the incident or incidents from his or her disciplinary records and files kept in the Office of Judicial Affairs. In

ENCLOSURE 4

OPE ID	Name	Address	Line 2	City
003077 00	Miami University	500 East High Street		Oxford

These figures are a "snapshot" as of **04/2005**

These figures should be used for estimation purposes only.

Award Year	2003-2004	Total	
Total FFEL + DL*	\$52,212,973	Total Pell Grants*	\$63,483,024
Total FFEL	\$51,893		\$7,571,069
Stafford Subsidized	\$1,313	FSEOG Total Authorization**	\$0
Stafford Unsubsidized	\$0	FWS Total Authorization	\$0
PLUS	\$50,580		
Total Direct Loan	\$52,161,680	Total Campus-Based Reported Expenditures	\$3,698,982
Stafford Subsidized	\$22,575,288	FSEOG Total Reported Expenditures	\$1,251,139
Stafford Unsubsidized	\$17,223,429	FWS Total Reported Expenditures	\$738,959
PLUS	\$12,362,963	Perkins Total Reported Expenditures	\$1,708,884

Medians

Notes:
 FFEL and FDSLP reported disbursements and Pell accepted disbursements come from NSDLS. FFEL and FDSLP disbursements are based on award year, initial year.
 Perkins, FSEOG and FWS authorizations come from the Campus-Based system. Reported expenditures come from the FBA2.
 Figures may have changed due to adjustments made by the institution or the Department of Education since this is online.

Medians	
Median FFEL + FDSLP Disbursements, All Institutions	\$1,785,482
Median Pell Grant Disbursements, All Institutions	\$817,386
Median Campus-Based Expenditures, All Institutions	\$274,140
OK	